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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/678,487

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Joseph L. Dvorak

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MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
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EXAMINER

LEE, BENJAMIN C

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,487

Applicant(s)

DVORAK ET AL.

Examiner

Benjamin C. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/5/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response To Amendment

Claim Status

1. Amended claims 1-7 and 9-21 are pending.

Claim Rejections - 35 USC § 103

2. Amended claims 1, 3-6, 9-13 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nellhaus (US pat. #5,845,264) in view of Lindsay et al. (US 2004/0100380A1).

1) Regarding claim 1, Nellhaus discloses:

a) A method for coordinating a suitability of using objects together, comprising the steps of: reading information from a first object to be used by an individual (58, 66 of Fig. 3A); retrieving data associated with the object (66, 100 of Fig. 3A); reading information from at least a second object to be used by an individual (72 of Fig. 3A); retrieving data associated with at least the second object (66, 100 of Fig. 3A); applying rules indicating the suitability of using the first object with at least the second object (col. 5, line 61 to col. 6, line 5 and inherent from 74, 402 of Fig. 3B);

except: b) the claimed wherein at least some of the rules that are applied to indicate suitability are customized by the individual who will use the first and second objects.

Nellhaus discloses monitoring and coordinating suitability of using objects such as medication together. In the same art, Lindsay et al. teaches monitoring and coordinating suitability of using objects such as foods and/or medication together using rules/profile settings (page 8, claim 29; [0051]) that are customizable ([0013]).

In view of the teachings by Nellhaus and Lindsay et al., it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to allow customization of the

rules such as taught by Lindsay et al. in a system/method such as taught by Nellhaus by the user individual, for individuals who are adults who deem themselves responsible enough to take on such responsibility of tracking food and/or medication coordination to prevent adverse interactions or other health risks so that any changes or updates to the rules can be more promptly addressed personally.

2) Regarding claim 3, Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 1, including: the claimed wherein the first object and at least the second object are drug containers (Fig. 2 and col. 3, lines 12-21 of Nellhaus whereby a gel cap medication form comprises medication inside the gel cap container) or food items (Lindsay et al.).

For the embodiment of food items: it would have been obvious to one of ordinary skill in the art at the time of the claimed invention that since interaction between some foods and/or between foods and drugs can also adversely effect the individual's health as do interaction between drugs/medication as taught by Lindsay et al., a system/method of Nellhaus and Lindsay et al. applies just as well for monitoring and coordinating food items and/or medication/drugs.

3) Regarding claim 4, Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 1, including: the claimed wherein the steps of reading information from the first object and from at least the second object comprises reading information from a barcode on a label associated with at least one among the first object and at least the second object (42 of Fig. 2 of Nellhaus).

4) Regarding claim 5, Nellhaus and Lindsay et al. render obvious the method of claim 1, including the claimed wherein the steps of reading information from the first object and from at

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least the second object comprises wirelessly reading information from a radio frequency identifier tag (RFID) associated with at least one among the first object and at least the second object (14 and figures of Lindsay et al.)

While Nellhaus uses barcode identifiers, Lindsay et al. teaches the known alternative use RFID tags and readers/scanners. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention that an RFID tag can alternatively to be used in place of the barcode identifier tag in Nellhaus as taught by Lindsay et al. for the advantage that RFID tag reading does not require direct line-of-sight as required by barcode tags and readers.

5) Regarding claim 6, Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 1, except the claimed wherein the steps of retrieving data for the first object and retrieving data for at least the second object comprises retrieving data from a remote server via a wireless network connection.

Nellhaus discloses retrieving data for the first object and retrieving data for at least the second object comprises retrieving data from database 100 and 402 (Figs. 3A-3B), and that when used as a portable unit, data may be reduced as a result of the database's memory limitations (col. 6, lines 11-16). It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to implement such database in the form of a remote server with a wireless network connection as a shared, centralized database large enough to provide all the data desired and necessary for the intended functions for multiple users to reduce cost for a system of users while not having to contend with reduced data availability in Nellhaus and Lindsay et al.

6) Claim 9: Nellhaus and Lindsay et al. renders obvious all of the claimed subject matter as in the consideration of claims 1 & 6, including: the claimed tag (42 of Fig. 2 of Nellhaus) on

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a first object to be used by an individual (40 of Fig. 2 and 58, 66 of Fig. 3A of Nellhause); a tag (42 of Fig. 2 of Nellhaus) on at least a second object to be used by the individual (72 of Fig. 3A of Nellhaus); and a portable communication device (col. 6, line 11 of Nellhaus and consideration of claim 6) having a processor programmed to: read information from the tag on the first object and from the tag on at least the second object; retrieve data associated with the first object and at least the second object; retrieve rules relating to the use of the first object and at least the second object; apply said rules to the use of the first object and at least the second object (consideration of claim 1); and provide feedback to the individual (76, 79 of Fig. 3B of Nellhaus).

7) Claim 10: Nellhaus and Lindsay et al. render obvious all of the claimed subject matter obvious as in claim 9, including wherein the portable communication device further comprises a bar code scanning device (12 of Nellhaus) for scanning bar codes on at least one among the first object and the second object.

8) Regarding claim 11, Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 9, wherein the claimed “tag on the first object and the tag on at least the second object are radio frequency identification tags and the portable communication device further comprises a transceiver for reading information wirelessly from the radio frequency identification tags” is met by the consideration of claim 5 by Lindsay et al.

9) Claim 12: Nellhaus and Lindsay et al. render obvious all of the claimed subject matter obvious as in claim 9, wherein the claimed further comprising a connection to a remote server containing at least one among a database having the data associated with the first object and at least the second object and a database containing the rules relating to the use of the first object and at least the second object is met by the consideration of claim 6.

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10) Claim 13: Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in 9, wherein:

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention that customization of the rules by the individual whereby the rules are in the form of profile settings in the portable communication device in Nellhuas and Lindsay et al., i.e. in program setting form, can be done by a rule editor program via communication with a computing device having such capability, and furthermore to specifically implement such rules customization using such editor program via the computing device in Nellhaus and Lindsay et al. when the portable device itself does not have the customization capability onboard or as a convenience when customization rules are already or more readily available from the computing device.

11) Claim 15: Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 9, plus the consideration of claim 3.

12) Claim 16: Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 9, including:

--the claimed drug coordination system of first and second drugs for rule analysis of the suitability of using the drugs together (Fig. 3B of Nellhaus).

13) Claim 17: Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in the consideration of claim 15.

14) Claim 18: Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 17, plus the consideration of claim 10.

15) Claim 19: Nellhaus and Lindsay et al. render obvious all of the claimed subject

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matter as in claim 17, plus the consideration of claim 12.

16) Claim 20: Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in the consideration of claim 17, wherein:

Nellhaus discloses retrieving data for the first object and retrieving data for at least the second object comprises retrieving data from database 100 and 402 (Figs. 3A-3B), and that when used as a portable unit, data may be reduced as a result of the database's memory limitations (col. 6, lines 11-16). It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to implement such database in the form of a remote server with a wireless network connection as a shared, centralized database large enough to provide all the data and rules desired and necessary for the intended functions for multiple users for determining match to reduce cost for a system of users while not having to contend with reduced data availability in Nellhaus and Lindsay et al.

17) Claim 21: Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 17, including:

--the claimed display feedback (76 in Fig. 3B of Nellhaus).

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nellhaus in view of Mosher, Jr. et al. (US pat. #5,979,941) and Tawil (US pat. #6,036,064).

1) Regarding claim 2, Nellhaus and Lindsay et al. render obvious the method of claim 1, except the claimed wherein the first object and at least the second object are articles of clothing.

Nellhaus discloses scanning barcodes of 2 drugs into the computer system to determine an interaction relationship between the 2 drugs by looking up information in a database using the 2 barcodes; Lindsay et al. teaches interaction between 2 objects can be between 2 food items or

food item(s) with medication. Mosher, Jr. et al. teaches applying barcode or RFID labels to 2 objects in order to determine nexus between the 2 objects in which such nexus can be any kind of relationship and the 2 objects can be any kind of objects (col. 1, lines 57 to col. 2, line 20; col. 4, lines 28-35 & 45-50; and col. 6, lines 33-48), while Tawil teaches the known application of barcode tags on articles of clothing to identify matching pieces that belong together, i.e. coordination or relationship (col. 1, lines 60-66).

In view of the teachings by Nellhaus, Lindsay et al., Mosher, Jr. et al. and Tawil, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention that the system of Nellhaus and Lindsay et al. can be applied to objects other than medicine and/or food items according to Mosher, Jr. et al., and specifically can be applied to coordinating a suitability of using first and second articles of clothing as taught by Tawil by simply specifying the nexus particular to clothing article coordination in the database and software according to such intended use.

4. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nellhaus in view of Lindsay et al., Mosher, Jr. et al., Tawil and Tubbs et al. (US pat. #5,967,562).

1) Regarding claim 7, Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 1, plus the consideration of claim 2 further in view of Mosher, Jr. et al. and Tawil:

While Nellhaus teaches using a computer software and database to apply rules to determine whether 2 objects match rule criteria, Tubbs et al. further teaches the know use of rules in specifically establishing/determining the matching of clothing/fashion (e.g. criteria/rule based on style, color family and color contrasting intensity disclosed in the Abstract and specification).

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In view of the teachings by Nellhaus, Lindsay et al., Mosher, Jr. et al., Tawil and Tubbs et al., it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use and apply fashion rules such as taught by Tubbs et al. in a system such as taught by Nellhaus, Lindsay et al., Mosher, Jr. et al. and Tawil when determining clothing matches.

2) Regarding claim 14, Nellhaus and Lindsay et al. render obvious all of the claimed subject matter as in claim 9, plus the consideration of claim 7 further in view of Mosher, Jr. et al., Tawil and Tubbs et al.

Response To Arguments

5. Applicant's arguments filed 5/5/06 regarding amended claims 1-7 and 9-21 are not deemed persuasive.

Applicants arguments are directed to the claimed invention as amended (the inclusion of the customization of the rules by the user individual). The amended claims have been rejected under new grounds of rejection using the additional reference of Lindsay et al. (see above rejection for detail.) Therefore, Applicant's arguments are moot in view of the new grounds of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin C. Lee whose telephone number is (571) 272-2963. The examiner can normally be reached on Mon -Th 9:00Am-5:30Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin C. Lee
Primary Examiner
Art Unit 2632

B.L.